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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,080	02/26/2004	Yasuhisa Mashiko	60188-786	3537
53080 7590 02/18/2009 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, NW WASHINGTON, DC 20005-3096				
EXAMINER				
LAMB, CHRISTOPHER RAY				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,080

Applicant(s)

MASHIKO, YASUHISA

Examiner

CHRISTOPHER R. LAMB

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 and 5 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 16th, 2008 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Wachi (JP 10-092100; machine translation relied upon).

Regarding claim 3:

Wachi discloses:

A rotational velocity controlling system in an information recording/reproducing apparatus which records and reproduces information on/from an information recording medium, the system comprising:

revolution number detecting means for detecting the number of revolutions of the information recording medium (paragraph 33);

linear velocity detecting means for detecting the linear velocity at an information recording/reproduction position on the information recording medium (paragraphs 58-59);

control information generating means for generating rotation control information used for controlling the rotational velocity of the information recording medium based on the revolution number information obtained by the revolution number detecting means and the linear velocity information obtained by the linear velocity detecting means (paragraphs 78-81); and

driving means for rotating the information recording medium based on the rotation control information generated by the control information generating means (paragraphs 78-81).

wherein:

the control information generating means uses the revolution number information obtained by the revolution number detecting means and the linear velocity information obtained by the linear velocity detecting means to divide one of these information by the other (paragraph 78);

the control information generating means generates a revolution number error as a difference between the revolution number information and an operation result value obtained by the division (paragraph 83: it increases or decreases the rotational speed according to the difference between the measured FG signal, which is the revolution number information, and the regular period, which is the operation result value; as the paragraph indicates, the regular period is specified for each zone, and the zone is

determined from the location of the spot, which as paragraphs 79-80 indicate, is determined from the division result, and therefore the regular period is an "operation result value obtained by the division); and

the control information generating means outputs the revolution number error as the rotation control information to the driving means (paragraph 83),

the control information generating means includes numerical range limiting means for limiting the numerical range of the operation result value (the operation result value is the regular period of the zone; paragraph 83 states that it is specified for each zone, and therefore it is limited to the zone specified value).

Regarding claim 5:

Wachi discloses:

abnormality detecting means for detecting occurrence of an abnormality in the output of the linear velocity detecting means according to a relationship between the revolution number information and the linear velocity information (paragraphs 80-82: the apparatus detects the position of the optical spot and then determines if the linear velocity is appropriate, increasing or decreasing it if necessary: if it is not appropriate, it is an abnormality).

Allowable Subject Matter

4. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 4:

In the rejection of claim 3, the operation result value of Wachi was taken to be the regular period of the FG signal specified for each zone. Since this number is specified for each zone, there is no possibility of an operation result value that exceeds a predetermined value: the operation result value is always a predetermined value. Therefore Wachi does not disclose "wherein the numerical range limiting means is upper limit means for limiting an operation result value which exceeds a predetermined value to the predetermined value."

This specific claim language was rejected in the previous Office Action, but the amendment to the independent claim prevents the operational result value of Wachi from being interpreted in the way it was in that Office Action. Therefore the combination of elements in the claim renders it allowable over the prior art of record.

Response to Arguments

6. Applicant's arguments filed December 16th, 2008 have been fully considered but they are not persuasive.

Applicant argues that claim 3 is allowable, and specifically that the language wherein "a revolution number error is generated as a difference between the revolution number information and an obtained operation result value" renders it so.

In the previous rejection, the Examiner had identified the detected location of the optical spot as the "operation result value" of Wachi. The amended claim language

prohibits this interpretation, because Wachi does not generation a revolution number error as a difference between the revolution number information and the detected location of the optical spot.

However, there is another value in Wachi that can be reasonably considered to be an "obtained operation result value." That value is the "regular period" of the FG signal. As Wachi discloses in paragraph 83, the regular period is specified for each zone. As disclosed in paragraph 75, the apparatus determines the zone location based on the TS/TFG signal. Therefore the zone location and thus the specified regular period are both operation result values obtained by the division.

As disclosed in paragraph 83, the apparatus generates a difference between the measured FG signal period (the revolution number information) and the regular period of the signal (the operation result value), and therefore when specified regular period disclosed by Wachi is taken to be the "operation result value" recited in the claim, the amended claim language is met.

Applicant next argues that claims 4 and 5 are allowable due to their dependence on claim 3; this particular argument is not persuasive since the arguments directed to claim 3 weren't found to be persuasive.

However, for other reasons, claim 4 does contain allowable subject matter as indicated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER R. LAMB whose telephone number is

(571)272-5264. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Lamb/
Examiner, Art Unit 2627